

AMENDED IN SENATE APRIL 26, 2005

AMENDED IN SENATE MARCH 29, 2005

**SENATE BILL**

**No. 1085**

**Introduced by Senator Migden**

February 22, 2005

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An act to amend ~~Sections 53395, 53395.1, 53395.3, 53395.4, 53395.5, 53395.14, and 53395.20 of, and to add Section 53395.26 to, Section 53395.1 of, and to repeal and add Section 53395.8 of, the~~ Government Code, relating to infrastructure financing districts.

LEGISLATIVE COUNSEL'S DIGEST

SB 1085, as amended, Migden. Infrastructure financing districts: public trust lands.

Existing law authorizes the formation by local legislative bodies of infrastructure financing districts, which may include specified types of areas, to incur debt, as defined, or provide for tax increment allocation, to finance the purchase, construction, expansion, improvement, seismic retrofit, or rehabilitation of specified types of real or tangible property, including specified types of facilities, pursuant to an infrastructure financing plan adopted pursuant to specified procedures.

This bill would *include a public agency that owns all the land to be included in a proposed district within the definition of "landowner" for purposes of these provisions.*

*This bill would, with respect to the City and County of San Francisco, expand the definition of "debt" for these purposes, include environmental remediation and certain types of repairs within those projects that may be financed, include various facilities within those qualifying for financing, and make various ~~clarifying~~ conforming changes. It would, with respect to the City and County of San*

*Francisco*, include tidelands and submerged lands subject to the public trust among the areas that may be included in an infrastructure financing district and make related changes. ~~It changes, would also make various changes in the procedures for formation of the district and adoption of an infrastructure financing plan if all the land in the district would be publicly owned, and would authorize the amendment of an infrastructure financing plan to extend time limitations for receipt of property tax increment, subject to specified conditions.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 53395.1 of the Government Code is  
2     amended to read:  
3     53395.1. Unless the context otherwise requires, the  
4     definitions contained in this article shall govern the construction  
5     of this chapter.  
6     (a) “Affected taxing entity” means any governmental taxing  
7     agency which levied or had levied on its behalf a property tax on  
8     all or a portion of the property located in the proposed district in  
9     the fiscal year prior to the designation of the district, but not  
10    including any county office of education, school district, or  
11    community college district.  
12    (b) “City” means a city, a county, or a city and county.  
13    (c) “Debt” means any binding obligation to repay a sum of  
14    money, including obligations in the form of bonds, certificates of  
15    participation, long-term leases, loans from government agencies,  
16    or loans from banks, other financial institutions, private  
17    businesses, or individuals.  
18    (d) “Designated official” means the city engineer or other  
19    appropriate official designated pursuant to Section 53395.13.  
20    (e) (1) “District” means an infrastructure financing district.  
21       (2) *An infrastructure financing district is a “district” within*  
22    *the meaning of Section 1 of Article XIII A of the California*  
23    *Constitution.*  
24    (f) “Infrastructure financing district” means a legally  
25    constituted governmental entity established pursuant to this  
26    chapter for the sole purpose of financing public facilities.

(g) “Landowner” or “owner of land” means any person shown as the owner of land on the last equalized assessment roll or otherwise known to be the owner of the land by the legislative body. The legislative body has no obligation to obtain other information as to the ownership of land, and its determination of ownership shall be final and conclusive for the purposes of this chapter. A public agency is not a landowner or owner of land for purposes of this chapter, *unless the public agency owns all of the land to be included within the proposed district.*

(h) “Legislative body” means the city council or board of supervisors.

*SEC. 2. Section 53395.8 of the Government Code is repealed.*

~~53395.8. An infrastructure financing district is a “district” within the meaning of Section 1 of Article XIII A of the California Constitution.~~

*SEC. 3. Section 53395.8 is added to the Government Code, to read:*

*53395.8. (a) This section applies only to the City and County of San Francisco. For the purposes of this chapter, the City and County of San Francisco is a city.*

*(b) In addition to the findings and declarations in Section 53395, the Legislature further finds and declares that consolidating in a single public agency the responsibility to administer waterfront lands in the City and County of San Francisco that are subject to the public trust and the ability to capture property tax increment revenues to finance needed public infrastructure improvements in those areas will further the objectives of the public trust and enjoyment of those trust lands by the people of the state.*

*(c) Notwithstanding subdivision (c) of Section 53395.1, for the purposes of this section, “debt” includes commercial paper and variable rate demand notes.*

*(d) In addition to the purposes provided in subdivision (a) of Section 53395.3, a district subject to this section may finance the environmental remediation of any real or tangible property that the district may finance pursuant to Section 53395.3. The district may also finance planning and design work that is directly related to the improvement, seismic retrofit, or environmental mediation of that property. The district may not finance routine nonstructural repair work.*

1 (e) In addition to the public capital facilities of  
2 communitywide significance that a district may finance pursuant  
3 to subdivision (b) of Section 53395.3, a district subject to this  
4 section may finance all of the following:

5 (1) Seismic and life-safety improvements to existing buildings  
6 and other structures.

7 (2) Rehabilitation, restoration, and preservation of structures,  
8 buildings, or other facilities having special historical,  
9 architectural, or aesthetic interest or value and that are locally  
10 designated landmarks.

11 (3) Structural repairs and improvements to piers, seawalls,  
12 and wharves.

13 (4) Remediation of hazardous materials.

14 (f) Notwithstanding Section 53395.4, a district subject to this  
15 section may include tidelands and submerged lands, including  
16 filled lands, subject to the public trust. However, nothing in this  
17 chapter shall be construed to exempt the lands from any legal  
18 restrictions on use under the public trust or an exemption from  
19 any trust or otherwise limit the jurisdiction of the public agencies  
20 having responsibilities for the stewardship of the public trust  
21 lands.

22 (g) Notwithstanding Section 53395.5, nothing in this chapter  
23 shall prohibit the formation of a district on urban waterfront  
24 property, nor the financing of needed public infrastructure  
25 projects located on public trust lands, pursuant to this section.

26 (h) Notwithstanding subdivision (c) of Section 53395.14,  
27 infrastructure improvements that increase public access to, or  
28 use or enjoyment of, public trust lands pursuant to this section  
29 shall be deemed to satisfy the requirements of that subdivision.

30 (i) Notwithstanding Section 53395.20 or any other provision  
31 of law, if all of the land in a district subject to this section would  
32 be publicly owned, no election shall be required to form the  
33 district, and the legislative body may, by ordinance, adopt the  
34 infrastructure financing plan and create the district, upon  
35 recommendation of the public agency with jurisdiction over the  
36 land.

37 (j) (1) Notwithstanding any other provision of this chapter,  
38 the legislative body may amend an infrastructure financing plan  
39 subject to this section to extend the time limitations for receipt of  
40 property tax increment beyond the 30-year period from adoption

1 of the ordinance for the district for a period not to exceed 10  
2 years to pay bonded indebtedness, if the district does all of the  
3 following:

4 (A) Includes an amendment, if necessary, to increase the total  
5 number of dollars to be allocated to the district.

6 (B) Prepares an analysis of the projected fiscal impact on  
7 each affected taxing entity.

8 (C) Sets a time and date for a public hearing on the matter.

9 (2) The amendment to the infrastructure financing plan shall  
10 be mailed by the clerk to each affected taxing entity for its  
11 review. Each affected taxing entity shall review and consent to or  
12 disapprove the amended infrastructure financing plan within 60  
13 days of the receipt thereof.

14 (k) (1) The legislative body shall hold a public hearing  
15 regarding the amendment to the infrastructure financing plan  
16 within 60 days after each affected taxing entity has approved the  
17 extension.

18 (2) The public hearing, and notice thereof, shall be conducted  
19 in accordance with Sections 53395.17 and 53395.18. At the  
20 conclusion of the hearing, the legislative body may adopt an  
21 ordinance adopting the infrastructure financing plan, as  
22 modified, or it may abandon the proceedings.

23 SEC. 4. The Legislature finds and declares that a special law  
24 is necessary and that a general law cannot be made applicable  
25 within the meaning of Section 16 of Article IV of the California  
26 Constitution because of the unique circumstances of the City and  
27 County of San Francisco. The facts constituting the special  
28 circumstances are:

29 The Port Authority of the City and County of San Francisco  
30 administers tidelands along its waterfront where there are  
31 neither private landowners nor registered voters. The Port  
32 Authority of the City and County of San Francisco wants to  
33 establish one or more infrastructure financing districts to finance  
34 improvements to those waterfront properties. However, the  
35 current law that governs the formation of infrastructure  
36 financing districts assumes the presence of private landowners  
37 and registered voters. In order to adapt the provisions of Chapter  
38 2.8 (commencing with Section 53395) of Part 1 of Division 2 of  
39 Title 5 of the Government Code, relating to infrastructure

1 *financing districts, to these unique circumstances, this special act*  
2 *is necessary.*

3 ~~SECTION 1. Section 53395 of the Government Code is~~  
4 ~~amended to read:~~

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7 **All matter omitted in this version of the bill**  
8 **appears in the bill as amended in the**  
9 **Senate, March 29, 2005. (JR11)**  
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